

SEP 09 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GENE L. ROGERS,

Plaintiff - Appellant,

and

UNITED STATES OF AMERICA,

Plaintiff,

v.

SACRAMENTO COUNTY; et al.,

Defendants - Appellees.

Nos. 06-16528

06-16790

D.C. No. CV-03-01658-  
LKK/DAD

MEMORANDUM \*

Appeal from the United States District Court  
for the Eastern District of California  
Lawrence K. Karlton, District Judge, Presiding

Submitted August 26, 2008 \*\*

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Gene L. Rogers, M.D., appeals pro se from the district court's judgment dismissing his qui tam action under the False Claims Act and from the district court's order denying his "Motion for Order to Show Cause Re: Vacation of Judgment/Order." We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Stoner v. Santa Clara County Office of Educ.*, 502 F.3d 1116, 1121 (9th Cir. 2007), *cert. denied*, 128 S. Ct. 1728 (2008), and we affirm.

The district court properly dismissed the action without prejudice because a relator cannot prosecute a qui tam action pro se under the False Claims Act. *See id.* at 1126-27.

The district court did not abuse its discretion by denying Rogers' "Motion for Order to Show Cause Re: Vacation of Judgment/Order" because, regardless of whether the motion is construed as a motion under Federal Rule of Civil Procedure 60(b) or a motion to reconsider, Rogers failed to demonstrate any ground for relief from judgment or any basis for reconsideration. *See Am. Ironworks & Erectors, Inc. v. N. Am. Constr. Corp.*, 248 F.3d 892, 899 (9th Cir. 2001) (concluding that the district court did not abuse its discretion by denying a Rule 60(b) motion where the moving parties reiterated arguments previously raised and did not present any basis to vacate the challenged order); E.D. Cal. R. 78-230(k) (setting forth

requirements for reconsideration).

Rogers' remaining contentions are without merit.

We do not consider any documents attached to Rogers' briefs that are not part of the district court record. *See Barcamerica Int'l USA Trust v. Tyfield Imps., Inc.*, 289 F.3d 589, 595 (9th Cir. 2002).

**AFFIRMED.**